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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/058,540 | 01/28/2002 | Ronald D. Russo | R-17 | 3722 |

7590 07/28/2003
Robert J. Doherty
10-11 George St.
Barrington, RI 02806

[REDACTED] EXAMINER

MENDOZA, MICHAEL G

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3761

DATE MAILED: 07/28/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

| | | | |
|------------------------------|--------------------------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/058,540 | RUSSO, RONALD D. | |
| | Examiner Michael G. Mendoza | Art Unit 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-11 is/are allowed.
- 6) Claim(s) 12-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 10, lines 1-8, filed 14 May 2003, with respect to claims 1-11 have been fully considered and are persuasive. The 102 rejections of 1,2, 4-8, and 10 have been withdrawn.
2. Applicant's arguments, see pages 15-17, filed 14 May 2003, with respect to the rejection(s) of claim(s) 12 and 34 under 102(b) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Rouns et al. 6588425.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 12, 18, 34-39, 41, 42, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Rouns et al. 6588425.
5. Rouns et al. teaches a respiratory suction catheter system for suctioning secretions from a patient comprising: a connector having front/frontal manifold and rear ends, a cleaning chamber disposed adjacent to the rear end of the connector, the

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cleaning chamber having an entrance opening, a catheter wiper and a catheter isolator seal, the entrance opening disposed at the distal end of the cleaning chamber and the catheter isolator seal disposed at the proximal end of the cleaning chamber and the catheter wiper disposed between the entrance opening and the catheter isolator seal, a suction catheter assembly having a housing connected at its front end to the cleaning chamber and having a catheter in turn having a proximal end and a distal end; wherein the cleaning chamber includes an access port; wherein the catheter assembly is fixedly attached to the proximal end of the frontal manifold; wherein the frontal manifold is a first part and the suction catheter assembly is a second part wherein the second part can be coupled and uncoupled from the first part; wherein the catheter is enclosed in a collapsible sleeve 108; wherein the catheter is attached to a source of suction; wherein the cleaning chamber includes an access port; wherein the access port is a catheter cleaning flush port (col. 6, lines 10-25); wherein the access port is fully capable of being a combination lavage, medication delivery and catheter flush port.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Rouns et al.

8. As to claims 13 and 14, Rouns et al. teaches the system of claim 12. It should be noted that Rouns et al. fails to teach a funnel shaped cleaning chamber. However, it would have been obvious to one of ordinary skill in the art to make the cleaning chamber of Rouns et al. funnel shaped because the shape of the cleaning chamber is a mere design choice and that any shape would perform equally well. Furthermore, the Applicant has not disclosed that the specific type of shape solves any stated problems or is for any particular purpose and it appears that the invention would perform equally well with the shape taught by Rouns et al.

9. Claims 15-17, 19, 40, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouns et al. in view of Lorenzen et al. 5730123.

10. Rouns et al. teaches the system of claim 12. It should be noted that Rouns et al. fails to teach wherein the isolator seal is normally biased to a sealed position.

11. Lorenzen et al. teaches a system wherein seals are normally biased to a sealed position. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to keep seals in a sealed position to minimize introduction of contamination and avoid loss of ventilating gas, but yet to allow entry of an instrument, device, or the like (col. 2, lines 66-67 through col. 3, lines 1-3).

12. Rouns/Lorenzen teach the system of claim 34, wherein the catheter is attached to a normally close suction control valve (col. 11, lines 27-37).

13. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rouns et al. in view of Kee et al. 5738091.

14. Rouns et al. teaches the system of claim 41. It should be noted that Rouns et al. fails to teach wherein the access port includes a one-way valve.

15. Kee et al. teaches a system with a common one-way valve allow fluid to be injected into the port. Therefore it would have been obvious to having ordinary skill in the art to modify the system of Rouns et al. to include the one-way valve of Kee et al. to allow fluid to be injected into the port, but inhibit fluid flow in the opposite direction (col. 9, lines 7-12).

Allowable Subject Matter

16. Claims 1-11 are allowable over the prior art of record.

17. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or render obvious the overall claimed combination of a suction system having a suction tube, a source of suction and a suction control valve, the suction control valve comprising: a manually depressible and releasable plunger operable within a second passageway wherein the plunger includes a closed piston portion and an open, unobstructed, straight through lumen portion and is normally positioned with a first passage to a non-suction applied position where the piston portion is positioned across the first passageway to hermetically seal off fluid and air flow communication between the suction tube and the source of suction, the plunger further manually operable from a upper surface an depressible with the second passageway to a suction applied position where the open, unobstructed, straight though lumen portion is positioned in the first passageway and wherein there is unobstructed fluid and air flow communication between the suction tube and the source of suction.

Contacts

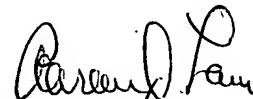
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

MM

MM
July 22, 2003


Aaron J. Lewis
Primary Examiner